

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 1:14-CR-212

ALVENA ANTONETT SWOOPE,

Hon. Paul L. Maloney

Defendant.

REPORT AND RECOMMENDATION

Pursuant to W.D. Mich. LCrR 11.1 and upon a request of the district court, I conducted a felony plea hearing in this matter on October 8, 2015, after receiving the written consent of the defendant, the defendant's attorney, and the attorney for the government. These consents were also placed on the record in open court.

Defendant Alvena Antonett Swoope is charged in a single-count indictment with possession of cocaine with intent to distribute in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A). There was no written plea agreement in this case. Defendant is subject to a ten-year mandatory minimum sentence under 21 U.S.C. § 841(6)(1)(A). The parties agree that defendant appears eligible for safety-valve treatment under U.S.S.G. 5C1.2 and 2D1.11(b)(6). I note that the decision to charge defendants with a mandatory minimum drug offense appears contrary to Department of Justice policy as set forth in the Attorney General's August 12, 2013, memorandum entitled "Department Policy on Charging Mandatory Minimum Sentences and Recidivist Enhancements in Certain Drug Cases."

On the basis of the record, I found that defendant was competent to enter a plea of guilty and that her plea was knowledgeable and voluntary with a full understanding of each of the rights waived by the defendant, that the defendant fully understood the nature of the charge and the consequences of her plea, and that the defendant's plea had a sufficient basis in fact which contained all of the elements of the offense charged. I accepted the plea of guilty, subject to final acceptance of the plea by the District Judge. I ordered the preparation of a presentence investigation report.

Recommendation

Based upon the foregoing, I respectfully recommend that the defendant's plea of guilty to the single-count Indictment be accepted, and that the court adjudicate the defendant guilty of that charge.

Dated: October 9, 2015

/s/ Ray Kent

RAY KENT

United States Magistrate Judge

NOTICE TO PARTIES

You have the right to *de novo* review by the district judge of the foregoing findings. Any application for review must be in writing, must specify the portions of the findings or proceedings objected to, and must be filed and served no later than fourteen (14) days after the plea hearing. *See* W.D. Mich. LCrR 11.1(b). A failure to file timely objections may result in the waiver of any further right to seek appellate review of the plea-taking procedure. *See Thomas v. Arn*, 474 U.S. 140 (1985); *Neuman v. Rivers*, 125 F.3d 315, 322-23 (6th Cir.), *cert. denied*, 522 U.S. 1030 (1997); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).